

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:10-CV-00360-FDW-DCK**

THIS MATTER is before the Court pursuant to Defendant First Franklin Loan Services' Motion to Dismiss pursuant to Ruler 12(b)(6) for failure to state a claim upon which relief can be granted or in the alternative for a more definite statement pursuant to Rule 12(e). (Doc. No. 13). The Court notes that *pro se* Plaintiffs have filed a timely response to Defendant's Motion on October 28, 2010. (Doc. No. 28). However, in an abundance of caution, the Court issues this Notice advising Plaintiffs of the burden they carry in confronting a Motion to Dismiss and permitting them time to amend their response. Plaintiffs must file any amendment to their response by **Wednesday, January 12, 2011**.

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises Plaintiffs, who are proceeding *pro se*, that in order to survive a 12(b)(6) motion to dismiss for failure to state a claim upon which relief can be granted, Plaintiffs’ “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, ____ U.S. ___, 129 S. Ct. 1937, 1949 (2009) (citing Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads sufficient factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct

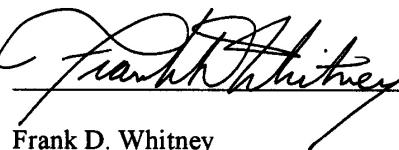
alleged.” Id. (citing Twombly, 550 U.S. at 556).

Plaintiffs are hereby advised that they have until **Wednesday, January 12, 2011** to file an amended response to Defendant’s Motion in light of the above standard. Plaintiffs’ amended response must be served on Defendants and must include a certificate of service indicating the manner in which Plaintiff served Defendants.

The Clerk is directed to send a copy of this Notice to Plaintiffs at 1742 Bray Drive, Charlotte, NC 28214 which is Plaintiffs’ address of record, and to counsel for the Defendant.

IT IS SO ORDERED.

Signed: December 13, 2010



Frank D. Whitney
United States District Judge

